

UNITED STATES DISTRICT COURT

FOR THE

DISTRICT OF MASSACHUSETTS

ELAINE CHAO, Secretary of Labor, *
United States Department of Labor, *

Plaintiff, *

v. *

MODERN CONTINENTAL CONSTRUC- *
TION COMPANY *

Defendant. *

CIVIL ACTION

FILE NO.

04 11982 RCL

MAGISTRATE JUDGE

Cohen

COMPLAINT

Plaintiff brings this action to enjoin the defendants from violating the retaliatory discharge and discrimination provisions of section 11(c) of the Occupational Safety and Health Act of 1970, 84 Stat. 1590, 29 U.S.C. § 651 *et seq.* (hereinafter called the Act) and for all appropriate relief.

I.

Jurisdiction of this action is conferred upon the Court by § 11 (c)(2) of the Act (29 U.S.C. § 660 (c)(2)).

II.

Defendant Modern Continental Construction Company, Inc. is a corporation having an office and place of business at 600 Memorial Drive, Cambridge, Massachusetts within the jurisdiction of this Court and is now, and at all times hereinafter mentioned was, engaged at that place of business, and elsewhere in the construction business.

III.

The defendant is, and at all times material hereto has been, a person as defined by § 3(4) of the Act (29.U.S.C. § 652 (4)).

IV.

Up until February 11, 2003, and at all times material hereto, Augustus Thorndike was an employee as defined by §3 (6) of the Act (29 U.S.C. § 652 (6)), employed by Defendant, employer as defined by §3 (5) of the Act (29 U.S.C. § 652 (5)).

V.

On or about February 11, 2003 the Defendant discharged Augustus Thorndike in retaliation for his safety complaints related to the Act or his exercise of rights afforded by the Act, all in violation of §11 (c)(1) (29 U.S.C. § 660 (c)(1)).

VI.

In accord with § 11 (c)(2) of the Act (29 U.S.C. §660(c)(2)), Augustus Thorndike filed a timely complaint with the Secretary of Labor on or about February 21, 2003 alleging retaliatory discrimination and discharge. The Secretary has investigated the complaint and determined that the Defendant has violated the provisions of §11 (c)(1) of the Act with respect to Augustus Thorndike.

VII.

Defendant having violated §11 (c)(1) of the Act, as alleged, a judgment restraining such violations and ordering all appropriate relief is expressly authorized by §11 (c)(2) of the Act (29 U.S.C. §660 (c)(2)).

VIII.

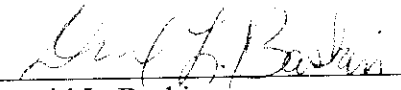
WHEREFORE, cause having been shown, Plaintiff prays judgment permanently enjoining and restraining Defendant, their agents, servants, employees and all persons acting or claiming to act on their behalf and interest, from violating the provisions of section 11(c)(1) of the Act (29 U.S.C. §660 (c)(1)), and for all appropriate relief, including but not limited to

Defendant's payment of lost wages, and interest thereon, or damages relating to its actions, and Defendant's posting in a prominent place for sixty (60) consecutive days a notice that Defendant will not in any manner discriminate against employees because of such employees' engagement in activities protected by §11(c) of the Occupational Safety and Health Act, and for the costs of this action.

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